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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
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12 **THOMAS ROSENBURG *et al.*, on behalf of**
13 **themselves and classes of those similarly**
14 **situated,**

15 **Plaintiffs,**

16 **v.**

17 **INTERNATIONAL BUSINESS**
18 **MACHINES CORPORATION,**

19 **Defendant.**

Case No. CV 06-00430 PJH

**STIPULATION AND [PROPOSED]
ORDER STAYING LITIGATION
PROCEEDINGS OTHER THAN
PROCEEDINGS RELATED TO
SETTLEMENT**

20 This Stipulation is entered into by and between Thomas Rosenberg, James Baxter, Sherry
21 Mattson, Steve Park, Fnu Kennedy, Exaldo Topacio, Vincent Letizio, Frank Vasterling, Robert
22 Carlo, Laurence Tosi III, Michelle Peel, Denise Rambsel, Robin Daniels, Marcia Howie, Rebecca
23 Taylor and Alan Erece ("Plaintiffs"), by and through their undersigned counsel, and International
24 Business Machines Corporation ("IBM" or the "Company"), by and through its undersigned
25 counsel. Plaintiffs and the Company are collectively referred to herein as the "Parties."

26 **RECITALS**

27 WHEREAS, the Parties to this action have negotiated a settlement of the case;
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1 WHEREAS, on November 22, 2006, Plaintiffs filed a Motion for Order (1) Conditionally
2 Certifying Settlement Classes and Collective Action, (2) Granting Preliminary Approval to
3 Proposed Class Action Settlement and Plan of Allocation, (3) Directing Dissemination of Notice,
4 and Claim Form to the Class, (4) Approving Releases, and (5) Setting Date for Fairness Hearing
5 and Related Dates;

6 WHEREAS, that motion is currently scheduled for a hearing on January 3, 2007;

7 WHEREAS, for the reasons set forth above, good cause exists to stay the proceedings in
8 this case, with the exception of proceedings related to approval and implementation of the
9 settlement;

10 WHEREAS, the only other modifications of time that the Parties have sought were a
11 thirty-day stipulated extension of the deadline for IBM to respond to the Complaint, two
12 stipulated continuances of the Case Management Conference, a stipulated extension of the
13 deadlines for Plaintiffs' Hoffmann motion and IBM's motion for summary judgment from
14 October 13, 2006, to, respectively, November 21, 2006 and November 22, 2006, and a stipulated
15 order vacating certain deadlines pending settlement discussions;

16 WHEREAS, except as set forth below, no other dates are affected by these changes;

17 WHEREAS, only to the extent specified below, this Stipulation and Order modifies (1)
18 the Stipulation and Order Regarding Case Schedule, Tolling of FLSA Statute of Limitations, and
19 Potential Collective Action Member Contact Information entered on June 7, 2006; (2) the Civil
20 Minutes order entered on August 18, 2006; (3) the Stipulation and Order Extending Tolling of
21 FLSA Statute of Limitations, Tolling Statutes of Limitations for Certain State Law Claims, and
22 Extending Schedule for Filing Certain Motions entered on October 5, 2006; and (4) the
23 Stipulation and Order Extending Tolling of Statutes of Limitations and Amending Case Schedule
24 entered on November 15, 2006. Except as modified, all four of these Stipulations and Orders
25 shall otherwise continue in full force and effect.

26 THEREFORE, the Parties stipulate and agree as follows:
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STIPULATION AND AGREEMENT

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2 1. The Case Management Conference scheduled for January 11, 2007 (as
3 specified in the Court's August 17, 2006 Civil Minutes order) is vacated.

4 2. All litigation proceedings, including discovery, except those proceedings
5 related to the settlement, are stayed.

6 3. Defendant shall not be required to file an answer or other responsive
7 pleading or to move in response to Plaintiffs' Second Amended Complaint, filed on
8 November 22, 2006, unless and until the Court lifts this stay of litigation proceedings and sets a
9 date for Defendant to file an answer or other responsive pleading or to move in response to the
10 Second Amended Complaint.

11 4. This stay of litigation shall not apply to any proceedings related to approval
12 and implementation of the settlement of this case. The January 3, 2007 hearing on Plaintiffs'
13 Motion for Order (1) Conditionally Certifying Settlement Classes and Collective Action, (2)
14 Granting Preliminary Approval to Proposed Class Action Settlement and Plan of Allocation, (3)
15 Directing Dissemination of Notice, and Claim Form to the Class, (4) Approving Releases, and (5)
16 Setting Date for Fairness Hearing and Related Dates, and any further proceedings related to the
17 settlement, shall proceed and shall not be affected by this stay.

18 Dated: December 8, 2006

By: /S/ Donna M. Mezas
Donna M. Mezas

Donna M. Mezas (SBN 111902)
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: (415) 626-3939
Facsimile: (415) 875-5700

Glen D. Nager, *pro hac vice*
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-5464
Facsimile: (202) 626-1700

Matthew W. Lampe, *pro hac vice*
JONES DAY
325 John H. McConnell Boulevard
Suite 600
Columbus, Ohio 43215-2673
Telephone: (614) 469-3939
Facsimile: (614) 461-4198

Attorneys for Defendant IBM

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1 Dated: December 8, 2006

By: /S/ James M. Finberg
James M. Finberg

2
3 James M. Finberg (SBN 114850)
4 Eve H. Cervantez (SBN 164709)
5 Jahan C. Sagafi (SBN 224887)
6 LIEFF, CABRASER, HEIMANN &
7 BERNSTEIN, LLP
8 275 Battery Street, 30th Floor
9 San Francisco, CA 94111-3339
10 Telephone: (415) 956-1000
11 Facsimile: (415) 956-1008
12 Email: jfinberg@lchb.com
13 Email: ecervantez@lchb.com
14 Email: jsagafi@lchb.com

15 Rachel Geman (RG 0998 [NY])
16 LIEFF, CABRASER, HEIMANN &
17 BERNSTEIN, LLP
18 780 Third Avenue, 48th Floor
19 New York, NY 10017-2024
20 Telephone: (212) 355-9500
21 Facsimile: (212) 355-9592
22 Email: rgeman@lchb.com

23 Steven G. Zieff (SBN 084222)
24 David A. Lowe (SBN 178811)
25 Kenneth J. Sugarman (SBN 195059)
26 RUDY, EXELROD & ZIEFF, LLP
27 351 California Street, Suite 700
28 San Francisco, CA 94104
Telephone: (415) 434-9800
Facsimile: (415) 434-0513
Email: szieff@reztlaw.com
Email: dal@reztlaw.com
Email: kjs@reztlaw.com

Todd F. Jackson (SBN 202598)
Claire Kennedy-Wilkins (SBN 231897)
Lindsay E. Nako (SBN 239090)
LEWIS FEINBERG RENAKER &
JACKSON, P.C.
1330 Broadway, Suite 1800
Oakland, CA 94612
Telephone: (510) 839-6824
Facsimile: (510) 839-7839
Email: tjackson@lewisfeinberg.com
Email: ckwilkins@lewisfeinberg.com
Email: lnako@lewisfeinberg.com

Adam T. Klein (AK 3293 [NY])
Justin M. Swartz (JS 7989 [NY])
Piper Hoffman (PH 4990 [NY])
OUTTEN & GOLDEN LLP
3 Park Ave., 29th Floor
New York, NY 10016
Telephone: (212) 245-1000
Facsimile: (212) 977-4005
Email: atk@outtengolden.com
Email: jms@outtengolden.com
Email: ph@outtengolden.com

Ira Spiro (SBN 67641)
SPIRO MOSS BARNES HARRISON &
BARGE, LLP
11377 W. Olympic Blvd., Fl. 5
Los Angeles, CA 90064-1625
Telephone: (310) 235-2468
Facsimile: (310) 235-2456
Email: ispiro@smbhblaw.com

J. Derek Braziel (00793380 [TX])
LEE & BRAZIEL, LLP
208 N. Market Street
Dallas, TX 75202
Telephone: (214) 749-1400
Facsimile: (214) 749-1010
Email: jdbraziel@l-b-law.com

Richard Burch (24001807 [TX])
BRUCKNER BURCH, PLLC
5847 San Felipe, Suite 3900
Houston, TX 77057
Telephone: (713) 877-8788
Facsimile: (713) 877-8065
Email: rburch@brucknerburch.com

David Borgen (SBN 99354)
GOLDSTEIN, DEMCHAK, BALLER,
BORGEN & DARDARIAN
300 Lakeside Drive, Suite 1000
Oakland, CA 94612
Telephone: (510) 763-9800
Facsimile: (510) 835-1417
Email: borgen@gdblegal.com

*Attorneys for Plaintiffs and the proposed
Plaintiff Classes*

ORDER

The foregoing Stipulation is approved, and IT IS SO ORDERED.

DATED: 1/3/07



1 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
2 “conformed” signature (/s/) within this e-filed document.

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4 Dated: December 8, 2006

_____/S/ Donna M. Mezias

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